

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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ELIZABETH TAPINEKIS, individually and  
on behalf of others similarly situated,

Plaintiff,

-against-

20 CIVIL 3210 (JMF)

**JUDGMENT**

PACE UNIVERSITY,

Defendant.

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It is hereby **ORDERED, ADJUDGED AND DECREED:** That for the reasons stated in the Court's Memorandum Opinion and Order dated April 11, 2022, Tapinekis's claims must be and are dismissed without prejudice for lack of subject-matter jurisdiction. See, e.g., *Hernandez v. Conriv Realty Assocs.*, 182 F.3d 121, 123 (2d Cir. 1999) ("Article III deprives federal courts of the power to dismiss a case with prejudice where federal subject matter jurisdiction does not exist."). Moreover, although leave to amend should be freely given "when justice so requires," Fed. R. Civ. P. 15(a)(2), it is "within the sound discretion of the district court to grant or deny leave to amend," *Broidy Cap. Mgmt. LLC v. Benomar*, 944 F.3d 436, 447 (2d Cir. 2019) (internal quotation marks omitted). Here, the complaint has already been twice amended and Tapinekis is "unable to demonstrate that [s]he would be able to amend h[er] complaint in a manner which would survive dismissal" again; accordingly, the case is closed.

**Dated:** New York, New York

April 12, 2022

**RUBY J. KRAJICK**

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**Clerk of Court**

**BY:**

*K. mango*

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**Deputy Clerk**